

FILED

JUL 28 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DARLA ELWOOD,

Plaintiff-Appellant,

v.

JOSEPH MORIN; COUNTY OF LOS
ANGELES; ANN WELLMAN; BARBARA
DALLIS,

Defendants-Appellees,

and

ROBERT BOYLE; SONIA JIMENEZ;
RODNEY DELAPLANE,

Defendants.

No. 04-55630

D.C. No. CV-01-08582-LGB

DARLA ELWOOD; TERRI ELWOOD;
EDWARD ELWOOD; ANTHONY
DELA PLANE; AMY MEINKE,

Plaintiffs-Appellants,

v.

ROBERT DRESCHER; ROBERT W.
ZAKON; VALERIE SKEBA; JOHN P.
FARRELL; HAIG KEHIAYAN; WILLIAM
A. MACLAUGHLIN; JUDY
HUTCHINSON, in her individual capacity;
CALIFORNIA DEPARTMENT OF
JUSTICE,

Defendants-Appellees.

No. 05-55724

D.C. No. CV-02-04656-LGB

DARLA ELWOOD,

Plaintiff-Appellant,

v.

JOSEPH MORIN; ROBERT BOYLE;
SONIA Jimenez; COUNTY OF LOS
ANGELES; ANN WELLMAN; BARBARA
DALLIS; RODNEY DELA PLANE,

Defendants-Appellees.

No. 05-55727

D.C. No. CV-01-08582-CJC

MEMORANDUM*

*This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

Appeal from the United States District Court
for the Central District of California
Lourdes G. Baird, District Judge, Presiding
Cormac J. Carney, District Judge, Presiding

Argued and Submitted June 5, 2006
Pasadena, California

BEFORE: THOMAS and GOULD, Circuit Judges, and SCHWARZER,** Senior
District Judge

Darla Elwood appeals the award of attorneys' fees to various defendants, and also the district court's denial of her motion for attorneys' fees incurred in resisting enforcement of the defendants' award. We affirm the award of attorneys' fees to Joseph Morin, the County of Los Angeles, and two County social workers, Ann Wellman and Barbara Dallis (Appeal No. 04-55630), and the denial of Elwood's motion for fees in the consolidated enforcement proceedings (Appeal Nos. 05-55724 & 05-55727). The fee awards to the other defendants (Appeal No. 04-55635) are addressed in an opinion filed concurrently with this memorandum. Because the parties are familiar with the facts, we do not restate them here.

1. *Elwood v. Morin*, No. 04-55630

The district court did not abuse its discretion in finding Elwood's claims in this case to be frivolous. Elwood's arguments on this appeal generally revisit the

**The Honorable William W Schwarzer, Senior United States District Judge for the Northern District of California, sitting by designation.

merits of the dismissal of her action and ask, contrary to the law of the case doctrine, that we reverse our prior decision affirming the dismissal. Elwood provides no support for her claim that California Civil Code § 49(a), prohibiting the taking of a child by force or enticement, should apply to situations where a social worker improperly takes a child away from one of its parents.

In her fifth and sixth causes of action, alleging conspiracies to deprive her of her constitutional rights, Elwood failed to allege facts supporting a meeting of the minds among the defendants. The fact that she adequately pled one element of these claims—the state action requirement—does not render the claims nonfrivolous. The seventh cause of action, alleging a County policy of punishing parents who challenged social workers, was dismissed for failure to allege a sufficient connection between any County policy and the alleged deprivation of a federal right. Elwood’s arguments do not show that the district court abused its discretion in finding this claim to be frivolous.

Elwood’s other arguments were not properly raised before the district court, and even if we considered them, do not show an abuse of discretion. The district court did not abuse its discretion in finding the defendants’ attorneys’ documentation of hours worked to be adequate. Elwood had an opportunity to challenge the revised fee requests, but did not follow the procedure for doing so.

The district court did not err in allowing Morin to refile his motion for fees after his initial motion was struck for failure to comply with Local Rule 7-3. The procedural irregularities described by Elwood do not show that Morin's attorney engaged in any misconduct so as to preclude an award of fees. Elwood did not provide any evidence to the district court of her inability to pay the fee awards, and her requests for this Court to take judicial notice of her tax returns would only show her income, and would not disclose whether she has assets to pay the fee awards. We affirm the district court's award of fees.

2. Consolidated Appeals, No. 05-55724 & 05-55727

In the consolidated appeal of the enforcement proceedings, we find no abuse of discretion in the district court's decision to deny Elwood's motion for attorneys' fees under 28 U.S.C. § 1927. There is no evidence here of vexatious multiplication of the proceedings by defendants, let alone that the district court abused its discretion in denying Elwood's motion for fees.

CONCLUSION

For the foregoing reasons, the awards of attorneys' fees to defendants in No. 04-55630 are **AFFIRMED**. The denial of attorneys' fees to Elwood in the consolidated cases of 05-55724 and 05-55727 is **AFFIRMED**. Appellees' motions for attorneys' fees on this appeal are **DENIED**.